

NORTH CAROLINA: ELON THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

ALAMANCE COUNTY: 2010 DEC 30 AM 11:30 08-CVS- 3760

JOHN LEE MYNHARDT, JR., JUDGE, C.S.C.

Plaintiff,

v.

ELON UNIVERSITY, LAMBDA CHI  
ALPHA, INC., et al.,  
Defendants.

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**ORDER Re: ELON UNIVERSITY'S MOTION FOR SUMMARY JUDGMENT,  
PER RULE 56, NORTH CAROLINA RULES OF CIVIL PROCEDURE**

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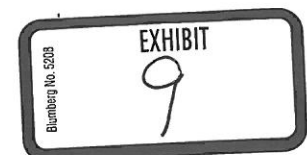
THIS MATTER came on for hearing before the undersigned Judge of Superior Court on Tuesday, November 23, 2010 at a special civil session of the Alamance County Superior Court held in Wake County pursuant to the authority granted by Rule 2.1, General Rules of Practice upon defendant Elon University's ("Elon") Motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure. Also set for hearing were Lambda Chi Alpha, Inc.'s ("LCA") Motion for Summary Judgment pursuant to Rule 56, and Delta Pi Chapter ("Delta Pi") of LCA's Motion for Summary Judgment pursuant to Rule 56.

The Court was provided with memoranda of law and authorities on all three (3) pending motions prior to the hearing which the Court had the opportunity to read prior to the hearing. The memoranda of law submitted by the plaintiff and three defendants totaled 135 pages exclusive of attachments. The Court was also provided with copies of more than 24 deposition transcripts and exhibits prior to the hearing.

Counsel for plaintiff, Elon, LCA and Delta Pi were present at the hearing and the Court heard arguments. The hearing lasted approximately three (3) hours and all parties were given the opportunity to argue and re-argue their positions.

The Court took the pending motions under advisement in order to consider the arguments and review the massive discovery materials and depositions taken in the course of discovery in this case.

Following the hearing, the Court undertook to review multiple depositions, exhibits and the extensive memoranda and case law provided by the parties. This review took place over a period of five (5) days. Following the Court's



review, the Court considered the matter further. However, putting off the decision will not make this sad case any easier. This matter is ripe for disposition.

**Decision:**

After considering the legal authorities, memoranda, matters of record, affidavits, depositions and materials submitted by plaintiff and Elon and the other two defendants, LCA and Delta Pi, the Court has determined that Elon's Motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure should be granted as to all of plaintiff's claims against Elon alleged in the Fourth Amended Complaint as there is no genuine issue as to any material fact and Elon is entitled to judgment as a matter of law.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:**

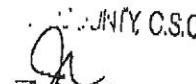
1. That Elon University's motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure is granted.
2. That Plaintiff's claims against Elon University are dismissed.

This the 30<sup>th</sup> day of December, 2010.

  
Howard E. Manning, Jr.  
Superior Court Judge

**NORTH CAROLINA:****IN THE GENERAL COURT OF JUSTICE****ALAMANCE COUNTY:****SUPERIOR COURT DIVISION****08-CVS- 3760**

AM 11:37

**JOHN LEE MYNHARDT,**  
Plaintiff,JY.  COUNTY C.S.C.

v.

**ELON UNIVERSITY, LAMBDA CHI  
ALPHA, INC., et al.,**  
Defendants.

---

**ORDER Re: LAMBDA CHI ALPHA, INC.'S MOTION FOR SUMMARY  
JUDGMENT, PER RULE 56, NORTH CAROLINA RULES OF CIVIL  
PROCEDURE**

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**THIS MATTER** came on for hearing before the undersigned Judge of Superior Court on Tuesday, November 23, 2010 at a special civil session of the Alamance County Superior Court held in Wake County pursuant to the authority granted by Rule 2.1, General Rules of Practice upon defendant Lambda Chi Alpha, Inc.'s ("LCA") Motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure. Also set for hearing were Elon University's ("Elon") Motion for Summary Judgment pursuant to Rule 56, and Delta Pi Chapter ("Delta Pi") of LCA's Motion for Summary Judgment pursuant to Rule 56.

The Court was provided with memoranda of law and authorities on all three (3) pending motions prior to the hearing which the Court had the opportunity to read prior to the hearing. The memoranda of law submitted by the plaintiff and three defendants totaled 135 pages exclusive of attachments. The Court was also provided with copies of more than 24 deposition transcripts and exhibits prior to the hearing.

Counsel for plaintiff, LCA, Elon and Delta Pi were present at the hearing and the Court heard arguments. The hearing lasted approximately three (3) hours and all parties were given the opportunity to argue and re-argue their positions.

The Court took the pending motions under advisement in order to consider the arguments and review the massive discovery materials and depositions taken in the course of discovery in this case.

Following the hearing, the Court undertook to review multiple depositions, exhibits and the extensive memoranda and case law provided by the parties. This review took place over a period of five (5) days. Following the Court's



review, the Court considered the matter further. However, putting off the decision will not make this sad case any easier. This matter is ripe for disposition.

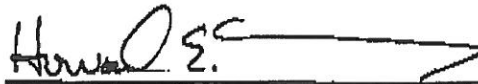
**Decision:**

After considering the legal authorities, memoranda, matters of record, affidavits, depositions and materials submitted by plaintiff and LCA and the other two defendants, Elon and Delta Pi, the Court has determined that LCA's Motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure should be granted as to all of plaintiff's claims against LCA alleged in the Fourth Amended Complaint as there is no genuine issue as to any material fact and LCA is entitled to judgment as a matter of law.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:**

1. That Lambda Chi Alpha, Inc.'s motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure is granted.
2. That Plaintiff's claims against Lambda Chi Alpha, Inc. are dismissed.


This the 30<sup>th</sup> day of December, 2010.



Howard E. Manning, Jr.  
Superior Court Judge

**NORTH CAROLINA:****IN THE GENERAL COURT OF JUSTICE****ALAMANCE COUNTY:****SUPERIOR COURT DIVISION**  
**08-CVS- 3760**

AM 11:39

**JOHN LEE MYNHARDT,**  
**Plaintiff,**BY  COUNTY C.S.C.**v.****ELON UNIVERSITY, LAMBDA CHI**  
**ALPHA, INC., et al.,**  
**Defendants.**

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**ORDER Re: DELTA PI CHAPTER OF LAMBDA CHI ALPHA INC.'S MOTION  
FOR SUMMARY JUDGMENT, PER RULE 56, NORTH CAROLINA RULES OF  
CIVIL PROCEDURE**

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**THIS MATTER** came on for hearing before the undersigned Judge of Superior Court on Tuesday, November 23, 2010 at a special civil session of the Alamance County Superior Court held in Wake County pursuant to the authority granted by Rule 2.1, General Rules of Practice upon defendant Delta Pi Chapter of Lambda Chi Alpha, Inc.'s ("Delta Pi") Motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure. Also set for hearing were Elon University's ("Elon") Motion for Summary Judgment pursuant to Rule 56, and Lambda Chi Alpha ("LCA") Motion for Summary Judgment pursuant to Rule 56.

The Court was provided with memoranda of law and authorities on all three (3) pending motions prior to the hearing which the Court had the opportunity to read prior to the hearing. The memoranda of law submitted by the plaintiff and three defendants totaled 135 pages exclusive of attachments. The Court was also provided with copies of more than 24 deposition transcripts and exhibits prior to the hearing.

Counsel for plaintiff, Delta Pi, Elon and LCA were present at the hearing and the Court heard arguments. The hearing lasted approximately three (3) hours and all parties were given the opportunity to argue and re-argue their positions.

The Court took the pending motions under advisement in order to consider the arguments and review the massive discovery materials and depositions taken in the course of discovery in this case.

Following the hearing, the Court undertook to review multiple depositions, exhibits and the extensive memoranda and case law provided by the parties. This review took place over a period of five (5) days. Following the Court's

review, the Court considered the matter further. However, putting off the decision will not make this sad case any easier. This matter is ripe for disposition.

**Decision:**

After considering the legal authorities, memoranda, matters of record, affidavits, depositions and materials submitted by plaintiff and Delta PI and the other two defendants, Elon and LCA, the Court has determined that Delta PI's Motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure should be granted as to plaintiff's claim for punitive damages against Delta PI as there is no genuine issue as to any material fact and LCA is entitled to judgment as a matter of law as to the punitive damage claim.

As to the plaintiff's negligence claims against Delta PI and Delta PI's contributory negligence defense, the Court has determined that there are issues of material fact and therefore, Delta PI's motion for summary judgment on plaintiff's negligence claims against Delta PI and Delta PI's contributory negligence defense are denied.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:**

1. That Delta PI Chapter of Lambda Chi Alpha, Inc.'s motion for Summary Judgment pursuant to Rule 56, North Carolina Rules of Civil Procedure is granted as to plaintiff's claim for punitive damages and that claim is hereby dismissed.
2. That Delta PI Chapter of Lambda Chi Alpha, Inc.'s motion for summary judgment as to plaintiff's negligence claims against Delta PI and Delta PI's defense of contributory negligence are denied.

This the 30<sup>th</sup> day of December, 2010.

  
Howard E. Manning, Jr.  
Superior Court Judge



HOWARD E. MANNING, JR.  
SUPERIOR COURT JUDGE  
WAKE COUNTY COURTHOUSE  
RALEIGH, N.C. 27602  
(919)792 - 4950

**FAX ONLY MEMO & CERTIFICATE OF SERVICE**

December 30, 2010

FROM: HOWARD E. MANNING, JR.

TO:

A.L. Butler Daniel  
Michael S. Petty at 919 821 9303 Plaintiff

Joseph W. Williford at 919 782 6753 Delta Pi

Dan M. Hartzog at 919 863 3425 Elon University

O. Craig Tierney at 919 835 0915 Lambda Chi Alpha, Inc

Richard L. Pinto at 336 282 8409 Cassady


By Postage Prepaid US Mail to:

William Joseph Hartness, Pro Se  
2122 Belmont Drive  
Reidsville, N.C. 27320

SUBJ: Mynhardt v. Elon University, et al. 08 CVS 3760  
Alamance County Superior Court

Re: Orders Re: Elon University Rule 56 Motion, Re: Lambda  
Chi Alpha, Inc. Rule 56 Motion and Re: Delta Pi Rule 56.  
Enclosed are three (3) Orders which I have signed and filed  
this date covering the motions heard November 23, 2010.

THIS FAX ONLY MEMO CONSTITUTES THE CERTIFICATE OF SERVICE.

  
Howard E. Manning, Jr.  
Superior Court Judge

HOWARD E. MANNING, JR.  
SUPERIOR COURT JUDGE  
WAKE COUNTY COURTHOUSE  
RALEIGH, N.C. 27602  
(919) 792 - 4950

FILED  
2010 DEC 30 AM 11:39  
ALAMANCE COUNTY, C.S.C.

FAX ONLY MEMO & CERTIFICATE OF SERVICE

December 30, 2010

FROM: HOWARD E. MANNING, JR.

TO:

A.L. Butler Daniel  
Michael S. Petty

910 -679 -4363  
~~at 919 821 9303 Plaintiff~~

*Celly far not  
on 12/30/10*

Joseph W. Williford at 919 782 6753 Delta Pi

Dan M. Hartzog at 919 863 3425 Elon University

O. Craig Tierney at 919 835 0915 Lambda Chi Alpha, Inc

Richard L. Pinto at 336 282 8409 Cassady

By Postage Prepaid US Mail to:

William Joseph Hartness, Pro Se  
2122 Belmont Drive  
Reidsville, N.C. 27320

SUBJ: Mynhardt v. Elon University, et al. 08 CVS 3760  
Alamance County Superior Court

Re: Orders Re: Elon University Rule 56 Motion, Re: Lambda  
Chi Alpha, Inc. Rule 56 Motion and Re: Delta Pi Rule 56.  
Enclosed are three (3) Orders which I have signed and filed  
this date covering the motions heard November 23, 2010.

THIS FAX ONLY MEMO CONSTITUTES THE CERTIFICATE OF SERVICE.

  
Howard E. Manning, Jr.  
Superior Court Judge

*7 Pages total*